

JAN 03 2007

REMARKS

Claims 1-4, 8-11, 15-17, and 21-24, all the claims pending in the application, stand rejected on prior art grounds. Applicants respectfully traverse these rejections based on the following discussion.

**I. The Prior Art Rejections**

Claims 1-2, 4, 8-9, 11, 15-16, 21-22, and 24 stand rejected under 35 U.S.C. 102(a) as being anticipated by Palpanas et al. (NPL "Incremental Maintenance for Non-Distributive Aggregate Functions", Proceedings of the 28<sup>th</sup> VLDB Conference, Hong Kong, China, 2002), also referred to herein as Palpanas or the Palpanas paper. Claims 3, 10, 17, and 23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Palpanas, in view of Liu et al. (NPL "Derivation of Incremental Equations for Nested Relations", Database Conference, 2001, ADC 2001, Proceedings 12<sup>th</sup> Australasian, pp. 76-82), hereinafter referred to as Liu. Applicants respectfully traverse these rejections based on the following discussion.

Applicants respectfully traverse the rejections because the relevant portions of "Incremental Maintenance for Non-Distributive Aggregate Functions" (i.e., Palpanas) were derived from the inventors of the present patent application (U.S. Patent Application Serial No. 10/643,644), filed by Applicants on August 19, 2003 (less than one year after the publication date of "Incremental Maintenance for Non-Distributive Aggregate Functions").

More particularly, "Incremental Maintenance for Non-Distributive Aggregate Functions" was the basis for the present patent application and discussed aspects of the invention defined by claims 1-4, 8-11, 15-17, and 21-24. Themistoklis Palpanas, Richard Sidle, Roberta Cochrane, and Hamid Pirahesh are co-authors of "Incremental Maintenance for Non-Distributive Aggregate Functions". Richard Sidle, Roberta Cochrane, and Hamid Pirahesh are joint inventors of the invention defined by claims 1-4, 8-11, 15-17, and 21-24 in the present application. Although Themistoklis Palpanas is a co-author in "Incremental Maintenance for Non-Distributive Aggregate Functions", he acknowledges by declaration under 35 U.S.C. §1.132 that he is not an inventor of the invention defined by claims 1-4, 8-11, 15-17, and 21-24 of the present application. In addition, as more fully described in the Request for Correction of Inventorship (filed by Applicants on January 3, 2007), Songting Chen and Peter J. Haas are not inventors of the invention defined by claims 1-4, 8-11, 15-17, and 21-24 of the present application.

Therefore, Richard Sidle, Roberta Cochrane and Hamid Pirahesh are the *only* joint inventors of the invention defined by claims 1-4, 8-11, 15-17, and 21-24 of U.S. Patent Application Serial No. 10/643,644 (all of the claims presently pending). Further, because Richard Sidle, Roberta Cochrane, and Hamid Pirahesh are also co-authors of "Incremental Maintenance for Non-Distributive Aggregate Functions", "Incremental Maintenance for Non-Distributive Aggregate Functions" describes Applicants' own work.

Accordingly, the supporting Exhibits establish that the relevant portions of "Incremental Maintenance for Non-Distributive Aggregate Functions" originated with or

were obtained from Applicants' own work (i.e., the work of the joint inventors, namely, Richard Sidle, Roberta Cochrane, and Hamid Pirahesh). Consequently, "Incremental Maintenance for Non-Distributive Aggregate Functions" should be removed as a reference (see MPEP 2132.01, Ex parte Hirschler, 110 USPQ 384 (Bd. App. 1952) and Ex parte Kroger, 219 USPQ 370 (Bd. Pat. App. & Int. 1982). In view of the foregoing, the Examiner is requested respectfully requested to reconsider and withdraw the rejections.

In addition, Applicants submit that Themistoklis Palpanas is not an inventor of the invention defined by claims 1-4, 8-11, 15-17, and 21-24 of the present application. As discussed above, although Themistoklis Palpanas is a co-author in "Incremental Maintenance for Non-Distributive Aggregate Functions", he acknowledges by declaration under 35 U.S.C. §1.132 that he is not an inventor of the invention defined by claims 1-4, 8-11, 15-17, and 21-24 of the present application.

In the Advisory Action dated December 19, 2006, the Examiner argued that the Palpanas reference has 4 co-authors and "only 3 are common" to the claimed invention and "[t]herefore the inventive entity is different and the reference still holds." Applicants submit that, in order to attribute the relevant portions of the Palpanas paper as Applicants' own work, Applicants are not required to show that *all* of the inventors of the claimed invention are common with *all* of the co-authors of the reference.

More specifically, as described in MPEP § 2132.01, "where the applicant is *one* of the co-authors of a publication cited against his or her application, the publication may be removed as a reference by the filing of affidavits made out by the other authors

establishing that the relevant *portions* of the publication originated with, or were obtained from, applicant” (emphasis added). Applicants note that the MPEP does not require that *all* of the inventors are common with *all* of the co-authors of the publication; rather, § 2132.01 only requires that “the applicant is *one* of the co-authors” (emphasis added). Further, Applicants note that the MPEP does not require that the inventors contribute to the *entire* publication; rather, § 2132.01 only requires that Applicants show that “relevant *portions* of the publication originated with, or were obtained from, applicant” (emphasis added). Applicants also cite MPEP § 716.10, which provides that “an affidavit or declaration may be submitted which attempts to attribute an activity, a reference or *part of a reference* to the applicant. If successful, the activity or the reference is no longer applicable” (emphasis added).

In view of the foregoing, Applicants submit that all of the inventors of the claimed invention are co-authors of the cited reference; and therefore, the cited reference describes Applicants’ own work. Moreover, Applicants have provided evidence to support such assertions in the Declaration. Accordingly, Palpanas et al. should be removed as a reference against the claimed invention.

## II. Formal Matters and Conclusion

In view of the foregoing, Applicants submit that claims 1-4, 8-11, 15-17, and 21-24, all the claims presently pending in the application, are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.


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Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary. Please charge any deficiencies and credit any overpayments to Attorney's Deposit Account Number 09-0441.

Respectfully submitted,

Dated: 1/03/07

  
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